

# NATIONAL RAILWAY EQUIPMENT CO.



HOME OFFICE 14400 S ROBEY STREET · P. O. BOX 2270 · DIXMOOR, ILLINOIS 60426  
TELEPHONE (708) 388-6002 · FAX (708) 388-2487

July 11, 2007

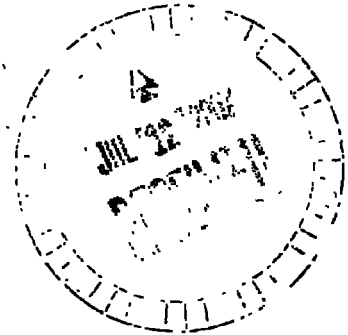
Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

RECORDATION NO. 27071 FILED

JUL 12 '07

4-20 PM

SURFACE TRANSPORTATION BOARD



Attn: Equipment Recordation

To Whom It May Concern:

I have enclosed for recordation, pursuant to the provisions of 49 U.S.C. 11301, an original and one counterpart of the memorandum of lease agreement and the schedule of equipment for a locomotive lease agreement dated July 9, 2007, a primary document under the Board's recordation regulations.

The names and addresses of the parties to the enclosed document are as follows:

Lessor: National Railway Equipment Co.  
14400 S. Robey St.  
Dixmoor, IL 60426

Lessee: RailTex Inc.  
4040 Broadway  
San Antonio, Texas 78209

A description of the equipment covered by the Lease Agreement is as follows:

One SD40-2 locomotive, bearing road # NREX 6486

A short summary of the document to appear in the index is as follows:

"Locomotive Lease Agreement"

Also enclosed is a check in the amount of \$35 payable to the Surface Transportation Board to cover the required recordation fee for the attached agreement.

Please date-stamp and return an original copy after recordation to:

Kristina Buchthal  
National Railway Equipment Co.  
14400 South Robey Street  
P.O. Box 2270  
Dixmoor, IL 60426

Sincerely Yours,

NATIONAL RAILWAY EQUIPMENT CO.

By:   
Kristina Buchthal

JUL 12 '07

4-20 PM

**LOCOMOTIVE LEASE AGREEMENT****SURFACE TRANSPORTATION BOARD**

**THIS LOCOMOTIVE LEASE AGREEMENT** ("Lease") entered into as of this 9th day of July 2007, between the National Railway Equipment Co., an Illinois corporation, ("LESSOR"), and RailTex, Inc., a Texas corporation ("LESSEE").

**LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:****1. LEASE AND LEASED PROPERTY**

Lessee hereby leases from Lessor, the locomotive, ("Locomotive"), together with the parts, accessories, attachments and devices, if any, now or hereafter affixed thereto, as described in Schedule "A" attached to and made part hereof.

**2. TERM**

The term of this Lease for the Locomotive shall be the fixed term set forth in Schedule "A", commencing on the date such Locomotive is accepted by Lessee ("Commencement Date"). In the event of default of the lease, Lessee shall affect prompt delivery of the Locomotive to Lessor at its Mt. Vernon, Illinois remanufacturing facility.

**3. RENTAL**

A. The rental payable shall be the sum identified in Schedule "A" payable in advance monthly installments upon purchase order receipt date. If the Commencement Date for the Locomotive does not fall on the first day of the month, the first rental payment shall be prorated accordingly.

B. Payments past due for more than five (5) days shall bear interest at the rate of twelve percent (12%) per annum.

C. All rentals shall be paid to Lessor at:

National Railway Equipment Co.  
1473 Paysphere Circle  
Chicago, IL 60674

or at such other address as Lessor may direct in writing.

**4. TAXES**

Lessee shall pay all use, excise, ad valorem, stamp, documentary and similar taxes (excluding, however, any franchise or similar taxes) on or relating to this lease of the Locomotive, or the use, registration, rental, maintenance, possession or operation thereof, and shall file any returns required therefor, and shall hold Lessor harmless against any liability and expense (including attorney fees and costs) on account of Lessee's failure to do the same.

**5. OWNERSHIP AND LESSOR'S INSPECTION**

A. The Locomotive shall at all times remain the sole and exclusive property of the Lessor.

at such other addresses as each party may notify the other.

If to Lessor: National Railway Equipment Co.  
P.O. Box 2270  
Dixmoor, Illinois 61282

If to Lessee: RailTex Inc.  
4040 Broadway  
Suite 200  
San Antonio, Texas 78209

With a copy to:  
VP-Regulatory Counsel  
Rail America, Inc.  
5300 Broken Sound Boulevard, NW  
Boca Raton, FL 33487

**WITNESS WHEREOF**, the parties have executed this Lease the day and year first mentioned above.

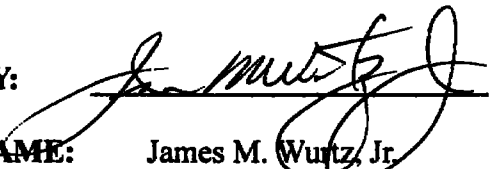
**LESSOR:**

**LESSEE:**

**NATIONAL RAILWAY EQUIPMENT CO.**

**RAILTEX, INC.**


**BY:**

  
\_\_\_\_\_

**NAME:** James M. Wurtz, Jr.

**TITLE:** Vice President

**BY:**

  
\_\_\_\_\_

**NAME:** Roger K. Robinson

**TITLE:** Director-locomotive Operations

**ATTEST:** Robert E. Loewer, Jr.

**ATTEST:**

**BY:**

\_\_\_\_\_

**TITLE:** Director of Finance

**BY:**

  
\_\_\_\_\_

**TITLE:** Secretary

(Corporate Seal)

(Corporate Seal)

## MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT is made and entered into as of July 9, 2007, by and between NATIONAL RAILWAY EQUIPMENT CO. ("Lessor"), and RAILTEX INC. ("Lessee"), with reference to the following:

1. Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor, the Locomotive model described herein.

The Locomotive is fully-described in a certain Lease Agreement dated as of July 9, 2007, (together with all of the riders, schedules and other attachments thereto, collectively, the "Lease"), each between Lessor and Lessee. A Schedule of the equipment is attached hereto.


2. The Lease shall be effective as of the date hereof and shall be subject to the term specified in the Lease, and any extension of such term to the extent provided for in the Lease.

The Memorandum of Lease Agreement may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one Memorandum of Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Memorandum of Lease Agreement to be executed as of the date first above written.

**LESSEE:**

**RAILTEX INC.**

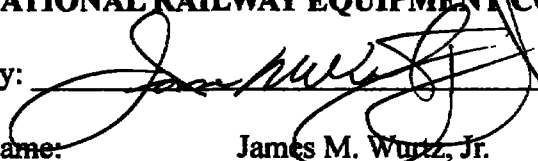
By: 

Name: Roger K. Robinson

Title: Director-locomotive Operations

**LESSOR:**

**NATIONAL RAILWAY EQUIPMENT CO.**

By: 

Name: James M. Wurtz, Jr.

Title: Vice President

STATE OF ~~Texas~~ Florida )  
COUNTY OF Palm Beach ) SS.

On this 9th day of July, 2007, before me appeared Roger K. Robinson, the person who signed this instrument who acknowledged that (s) he is the Dir. of Operations of RailTex, Inc. and that, being duly authorized, (s) he signed such instrument as a free act on behalf of said corporation.  
personally known to me  
DAW



[Seal]

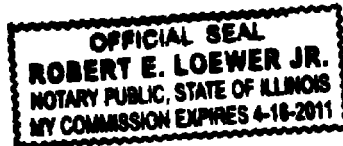
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF ILLINOIS )  
COUNTY OF ~~WILL~~ ) SS.  
Cock

On this 10th day of July, 2007, before me appeared James M. Wurtz Jr., the person who signed this instrument who acknowledged that (s) he is an officer of NATIONAL RAILWAY EQUIPMENT CO. and that, being duly authorized, (s) he signed such instrument as a free act on behalf of said corporation.



[Seal]

Notary Public

My Commission Expires:

\_\_\_\_\_

## SCHEDULE OF EQUIPMENT

Lessor: NATIONAL RAILWAY EQUIPMENT CO.

Lessee: RAILTEX INC.

Approved by: \_\_\_\_\_

(Lessee to initial each page)

Attached to Bill of Sale dated: \_\_\_\_\_

Equipment Located at:

Lessee's project site in Phillipsburg, Kansas

Equipment Schedule No.: See Schedule "A"

Manufacturer and/or Vendor  
Name & Invoice Number

Equipment  
Description

National Railway Equipment Co.

EMD SD40-2 Six Axle Locomotive